

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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GUCCI AMERICA, INC.,

Plaintiff,

- against -

JENNIFER GUCCI, JENCO DESIGNS, LLC,  
JENNICOR, LLC, JENNY GUCCI COFFEE AND  
GELATO COMPANY, INC., VERATEX, INC.,  
COLLEZIONE DI CASA, INC., E.L. ERMAN -  
DEAD SEA COSMETICS CORP., ELE BRANDS  
ENTERPRISE, INC., GBN WATCH  
COLLECTION, INC., GBN GLOBAL BUSINESS  
NETWORK, EDWARD LITWAK d/b/a ED  
LITWAK & ASSOCIATES, GEMMA GUCCI,  
GEMMA GUCCI COFFEE AND GELATO  
COMPANY, INC., ABC CORPORATIONS 1-10,  
and JOHN DOES 1-10,

Defendants.  
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Civil Action No.  
07 cv 6820 (RMB) (JCF)

**WITNESS STATEMENT OF JONATHAN MOSS  
ON BEHALF OF PLAINTIFF GUCCI AMERICA, INC.**

Jonathan Moss declares as follows under penalty of perjury:

1. I am General Counsel for plaintiff Gucci America, Inc. ("Gucci"), owner of the world famous GUCCI brand name and other well known Gucci trademarks in the United States. I respectfully submit this witness statement as my trial testimony in this action against defendants Jennifer Gucci, Gemma Gucci and Edward Litwak d/b/a Ed Litwak & Associates ("Litwak").

2. As the Court can see, these Defendants are attempting to license, manufacture, market and sell full lines of consumer products bearing the JENNIFER GUCCI and GEMMA GUCCI names. In addition to infringing the world famous GUCCI trademark, in an obvious indication of their bad faith intent, Defendants Jennifer Gucci and Litwak also seek to use counterfeits of other registered trademarks owned by Gucci, including Gucci's world famous GREEN-RED-GREEN Stripe Design and REPEATING GG Pattern Design marks.

3. Accordingly, in this action, Gucci seeks a permanent injunction against Defendants' infringement of the world famous GUCCI, GREEN-RED-GREEN Stripe Design and REPEATING GG Pattern Design marks, and further seeks a permanent injunction barring defendants from making any commercial use of their names in the marketing, promotion or sale of any consumer products, as any such use is likely to cause confusion with the world famous GUCCI trademark and cause substantial and irreparable harm to Gucci.

4. Gucci is organized and exists under the laws of the State of New York, with its principal place of business located at 685 Fifth Avenue, New York, New York 10022.

5. GUCCI is one of the most famous and most recognized brand names in the United States and the world, and one of the most iconic names in fashion and design. *See*, Pl. Tr. Exs. 230 - 234.

6. The GUCCI brand was founded in Florence, Italy in 1921 by Guccio Gucci. In 1938, the Gucci company expanded its operations and opened its first retail store outside of Florence, on the Via Condotti in Rome. In the decades that followed, Gucci became famous for its fine leather goods, and then built on its reputation to become one of the leading luxury goods fashion and accessory brands in the world. *See*, Pl. Tr. Exs. 231, 233.

7. In 1953, Gucci became one of the pioneers of Italian design in the United States when it opened its first American retail store in the Savoy Plaza Hotel on East 58<sup>th</sup> Street in New York City. Shortly thereafter, it expanded its presence in the United States, opening retail stores in Palm Beach, Florida and Beverly Hills, California. *See*, Pl. Tr. Exs. 231, 233.

8. Over the years, the Gucci product line has encompassed handbags, luggage, men's apparel, women's apparel; apparel accessories, sunglasses, footwear, jewelry, watches, fragrances, home products and even automobiles, all sold under the world famous GUCCI brand name (the "Gucci Products"). Today, all authorized Gucci Products bear the GUCCI brand name, either on their labels, hang tags affixed to the products, or on the products themselves. *See*, Pl. Tr. Exs. 230 - 233.

9. Since its inception, the GUCCI brand name has been synonymous with luxurious and elegant products and services, and currently the GUCCI brand name is one of the most recognized brand names in the world. Consumers and the trade instantly identify Gucci as the source of all products sold under the GUCCI brand name. *See*, Pl. Tr. Exs. 230 - 234.

10. Over many decades, literally hundreds of millions of consumers have been exposed to the GUCCI brand name and the other Gucci trademarks, including Gucci's GREEN-RED-GREEN Stripe design and REPEATING GG Pattern design marks, not only in advertisements, but in fashion magazines, television programs and motion pictures. For

example, recent press reports recount that Jacqueline Kennedy, Audrey Hepburn, and young Princess Caroline of Monaco were fans of the label, and that Gucci's archives of famous photo shoots include Princess Diana as a child bride and young woman, Britt Ekland trading GUCCI logos with Peter Sellers, and Madonna in various leather jackets. *See*, Pl. Tr. Exs. 231, 233.

11. Gucci spends many millions of dollars each year advertising the Gucci Products, with an advertising campaign that includes frequent advertisements in the *New York Times*, *Los Angeles Times*, *Harper's Bazaar*, *Vogue*, and numerous other widely distributed magazines and news publications. *See*, Pl. Tr. Exs. 232 - 233.

12. Gucci manufactures, licenses and wholesales a broad range of consumer products that utilize the GUCCI brand name and other iconic Gucci trademarks, including the GREEN-RED-GREEN Stripe design and REPEATING GG Pattern design marks, only to the most select, high-end, retail outlets. In addition, Gucci owns approximately 50 stores throughout North America that sell exclusively GUCCI Products. GUCCI Products are also sold in over 200 additional boutiques around the world.

13. Over many years, Gucci has realized enormous and ever-increasing sales of GUCCI brand products, such sales totaling in the billions of dollars in the United States alone.

14. Gucci endeavors to maintain the reputation for quality and luxury that it has painstakingly developed in the GUCCI brand name. Strict quality control standards are imposed in the manufacture of all products bearing the GUCCI trademark. Gucci's adherence to only the highest quality standards has resulted in widespread and favorable public acceptance among consumers for Gucci Products.

15. As a result of Gucci's extensive advertising and promotion, adherence to the highest quality standards for manufacturing and materials, and extraordinary sales success, the


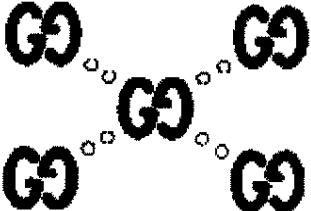
GUCCI brand name is considered the “most coveted luxury brand in the world.” *See*, Pl. Tr. Exs. 230 - 234.

16. In the early 1960’s, Gucci adopted and began using the GREEN-RED-GREEN Stripe and REPEATING GG Pattern designs. By the late 1960’s, these designs began appearing on a wide range of consumer products sold under the world famous GUCCI brand name. Today, the GREEN-RED-GREEN Stripe Design and REPEATING GG Pattern Design are two of the most recognized design marks in the world, and two of Gucci’s “iconic” trademarks, used time and again, from season to season, on a wide variety of goods. *See*, Pl. Tr. Exs. 230, 231, 233.

17. GUCCI brand products featuring the GREEN-RED-GREEN Stripe and REPEATING GG Pattern designs have been worn over the years by such celebrities as Sarah Jessica Parker, Jessica Alba, Katie Holmes, Sammy Davis Jr., Michael Caine, Ellen Barkin, Britt Ekland, Peter Sellers, Linda Carter, Ringo Starr, Sharon Stone, Amanda Bynes, Sarah Michelle Geller, Joel Madden, Gwen Stefani, Britney Spears, Lindsay Lohan, P Diddy, America Ferrera, Renee Zellweger, Paris Hilton, Kanye West and Lebron James. *See*, Pl. Tr. Exs. 230, 231, 233.

18. Today, and for many years, the GUCCI, GREEN-RED-GREEN Stripe design and REPEATING GG Pattern design trademarks, have been some of the most widely-recognized marks in the United States, possessing strong secondary meaning among consumers and the trade. These trademarks immediately identify Gucci as the exclusive source of the products to which the marks are affixed, and signify goodwill of incalculable value. *See*, Pl. Tr. Exs. 230 - 233.

19. Gucci is the owner of all right, title and interest in and to, *inter alia*, the following trademarks and/or service marks which are federally registered in the United States:

Mark	Reg. No.	Reg. Date	Class(es)
GUCCI	876,292	09/09/69	16, 18, 21, 25
	959,338	05/22/73	14
	972,078	10/30/73	42
	1,093,769	06/20/78	16
	1,140,598	10/21/80	3
	1,168,477	09/08/81	25
	1,169,019	09/15/81	9
	1,168,922	09/15/81	6
	1,200,991	07/13/82	14
	1,202,802	07/27/82	25
	1,321,864	02/26/85	9
	1,340,599	06/11/85	14
GREEN-RED-GREEN STRIPE 	1,122,780	07/24/79	18
	1,123,224	07/31/79	14
	1,483,526	04/05/88	25
REPEATING GG DESIGN 	2,680,237	01/28/03	14
	3,072,547	03/28/06	25
	3,072,549	03/28/06	18

See, Pl. Tr. Exs. 206 - 223.

20. From our review of the records of the United States Patent and Trademark Office, Gucci has learned that Defendants and/or their representatives have sought to register the following trademarks in the United States for a variety of goods and services: COLLEZIONE DI JENNIFER GUCCI; (Application Number 75/446,501 dated March 9, 1998); COLLEZIONE DI JENNIFER GUCCI (Application Number 75/446,502 dated March 9, 1998); JENNIFER

DESIGNED BY JENNIFER GUCCI (Application Number 76/228,124 dated March 22, 2001); GEMMA GUCCI (Application Number 78/173,379 dated October 11, 2002); GEMMA GUCCI (Application Number 78/695,443 dated August 18, 2005); and REBEL GUCCI (Application Number 78/695,464 dated August 18, 2005). However, the Trademark Office has refused registration of each of these marks, indicating that the applied-for marks would be confusingly similar to one or more of the famous registered GUCCI trademarks set forth in paragraph 18 above, and each of these applications was abandoned. *See*, Pl. Tr. Exs. 90 - 93, 224 - 229.

21. Given the enormous market strength and widespread consumer recognition of the GUCCI brand name, Defendants efforts to license, manufacture, market and sell a full line of consumer products utilizing the JENNIFER GUCCI and/or GEMMA GUCCI names is likely to cause confusion with the world famous GUCCI trademark, and will result in substantial and irreparable harm to Gucci. Defendants have nothing whatsoever to do with Gucci's business, and have no reputation as designers of any products in the United States. Therefore, the only reason they and their representatives are trying to license and use the names JENNIFER GUCCI and GEMMA GUCCI is to take advantage of the substantial goodwill symbolized by the GUCCI mark, one of the world's most famous trademarks, and give their products instant brand recognition that took our company 80 years to build. Accordingly, Gucci seeks a permanent injunction barring defendants from infringing any of Gucci's famous registered trademarks, and from making any commercial use of their names, either on products or in connection with the marketing, promotion and/or advertising of any product.

DECLARED UNDER PENALTY OF PERJURY THIS 16<sup>th</sup> DAY OF JUNE, 2008

  
Jonathan Moss